IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 87 of 2007

DAL CHAND
V/S
SMT.CHANDI BAI & ORS.

Mr. SURESH SHRIMALI, for the appellant / petitioner

Mr. B R MEHTA, for the respondent

Date of Order : 4.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

The matter comes up for consideration of stay. However, in view of the short question involved, at the request of the learned counsel for the parties, the appeal is being finally decided at this stage itself.

The facts of the case are, that the plaintiff appellant filed an application for temporary injunction, in a suit for cancellation of sale deed, alleging interalia, that the property mentioned in para-2 of the plaint is recorded in the revenue record in the name of the plaintiff and defendant no.4, and that the property has not been partitioned. However, the defendant no. 4 has sold away ½ share to the defendants no. 1, 2, and 3, and in that garb the defendants are likely to alienate the property to other person, which would give rise to complications.

The learned lower Appellate Court found, that permission of co-sharer is not required for alienation by one of the co-sharer, and thus it was found, that the plaintiff has no prima facie case, and thus, the temporary injunction application has been dismissed.

From perusal of the cause title of the case it clearly appears, that the plaintiff is the husband and father of defendant no. 1, 2, and 3, and is son of defendant no.4.

It does appear, that there is some family dispute, and the mother appears to have sold away her share to her daughter-in-law, and grand children. However, in order to ensure the possibility of rehabilitation, and in order to avoid future complications, I think it appropriate, that pending disposal of the suit both the parties should maintain status quo of the property as it exists.

Accordingly, the appeal is disposed of with the direction that both the parties shall maintain status quo. The learned trial court, however, is also directed to expeditiously decide the main suit. The parties shall bear their own costs of this appeal.

(N P GUPTA),J.

/Sushil/